

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

GREGORY D. SMITH

Plaintiff,

v.

1:06-cv-1441-WSD

**CONTINENTAL CASUALTY
COMPANY and THE HARTFORD
LIFE AND ACCIDENT
INSURANCE COMPANY d/b/a
THE HARTFORD GROUP
BENEFITS**

Defendants.

OPINION AND ORDER

This matter is before the Court on Plaintiff Gregory D. Smith's Motion for Interim Award of Attorneys' Fees [37] and Motion for Extension of Time to Submit Affidavits and Declarations in Support of Motion for Interim Award of Attorneys' Fees [39].

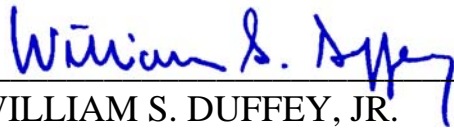
Plaintiff has moved to recover attorneys fees for his claimed partial victory on summary judgment pursuant to 29 U.S.C. § 1132(g)(1), which provides that "the court in its discretion may allow a reasonable attorney's fee. . . ." The Court finds that because substantial issues remain open in this case, it would be a

inappropriate to award Plaintiff attorney's fees at this time. At the conclusion of this case, the parties may file requests for attorney's fees, which may include, if appropriate, a request by Plaintiff for attorney's fees he claims in relation to the Court's July 16, 2007 Order granting him partial summary judgment.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff Gregory D. Smith's Motion for Interim Award of Attorneys' Fees [37] and Motion for Extension of Time to Submit Affidavits and Declarations in Support of Motion for Interim Award of Attorneys' Fees [39] are **DENIED AS MOOT**, without prejudice to Plaintiff's right to request such attorney's fees, if appropriate, at the conclusion of this case.

SO ORDERED this 13th day of August, 2007.



WILLIAM S. DUFFEY, JR.
UNITED STATES DISTRICT JUDGE